

CLIMAX MOLYBDENUM COMPANY

A subsidiary of **phelps
dodge**
Corporation

Climax Molybdenum Company
P.O. Box 220
Fort Madison, Iowa 52627
(319) 463-7151

July 1, 2003

03ENV-034

Mr. Gary Witkovski
U.S. EPA, Region VII
Federal Building
210 Walnut Street, Room 473
Des Moines, IA 50309-2109

REC'D
JUL 15 2003
RESP

RECEIVED
JUL 07 2003
ARCM/ENSV

Subject: Climax Molybdenum Company, EPA ID Number IAD000222653
Hazardous Waste Inspection of June 24, 2003

Dear Sir:

This letter is in response to the hazardous waste inspection conducted at Climax Molybdenum Company (CMC) on June 24, 2003. Specifically, CMC responds to the items identified in your inspection report as "noncompliant." Based on this response, CMC respectfully requests that you reconsider the "noncompliant" conclusions reached in the inspection report.

Universal Wastes

CMC has reviewed their hazardous waste inventory for the last 12 months and has confirmed that the combined amount of hazardous and universal waste generated in any given month has never exceeded 220 pounds. Therefore, CMC is regulated as a Conditionally Exempt Small Quantity Generator, or CESQG.

CMC would like to point out the preamble to the final mercury lamp rule, where EPA states several times that lamps generated at CESQG facilities are not subject to universal waste regulation:

- 64 Fed. Reg. 26,469 – "...emissions from CESQG lamps are outside of rulemaking...",
- 64 Fed. Reg. 26,473 – "many spent lamps are largely exempt from hazardous waste regulations because they are generated by [CESQGs]...",
- 64 Fed. Reg. 26,475 – "...[CESQGs] can choose to manage their universal lamps in accordance with either the CESQG regulations under 40 CFR 261.5 or as universal wastes under part 273."

Indeed, the information you provided to CMC on June 24, 2003 concerning Universal Waste states the following, "The rule does not apply to businesses that generate less than 100 kilograms of universal wastes per month (Conditionally Exempt Small Quantity Generators)." Accordingly, the lamps that you observed during the hazardous waste inspection are CESQG waste that is not subject to the universal waste regulations.

420626



RCRA RECORDS

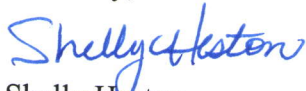
Hazardous Waste Characterization

The second issue that you raised in your inspection report was the failure to make a hazardous waste determination on waste super sacks. The super sacks are made of a woven polypropylene, which does not contain any hazardous waste constituent. The concentrate contained in the super sacks is regulated under the Bevill rule. Under the Bevill-mixture rule (40 CFR 261.3 (a)(2)(i)), a mixture of a Bevill waste and a non-Bevill waste is not subject to regulation if the Bevill waste caused the mixture to exhibit a hazardous waste characteristic. The super sacks are a non-Bevill waste that do not exhibit a hazardous waste characteristic. The concentrate put in the sacks is a Bevill waste because it is uniquely associated with the beneficiation of ores and minerals (40 CFR 261.4(b)(7)). Thus, even if the used super sacks exhibit a hazardous waste characteristic, they would not be subject to hazardous waste regulation because it is only possible for the concentrate to cause the used sacks to exhibit a hazardous waste characteristic.

Based on this information, CMC believes that these inspection findings are not noncompliances and requests that the record be amended to reflect this fact.

If you have any questions please contact me at (319) 463-2224.

Sincerely,



Shelly Heston
Environmental Manager

SRB
Enclosure

Management\Critical Item Specifications\7026 Concentrate Bag Unlined Sp.doc

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PRINTED DOCUMENTS ARE UNCONTROLLED

REVISION 0

Henderson Mill Site
Parshall, CO
Attn: Mill Warehouse
FAX: 970-725-3394

Note: Product subject to quality review and/or inspection, nonconforming lots may be returned to supplier.

REMINDER: MIMS CATALOG DESCRIPTION MUST BE UPDATED AS CHANGES ARE MADE.

CONCENTRATE GRADE 1 BAG (UNLINED) SPECIFICATION

CONCENTRATE BAG (UNLINED)

MIMS STOCK CODE: 4056966

BAG, NO-LINER, COATED, \geq 4400 POUND CAPACITY.

DIMENSIONS: BASE SIZE 35" X 35", HEIGHT OF 52", ALL DEMENIONS MEASUERED FROM INTERIOR SEAM LINE TO INTERIOR SEAM LINE

FILL SPOUT: 16" DIAMETER X 16" HEIGHT

DISCHARGE: PLAIN BOTTOM - NO SPOUT

FABRIC: WOVEN POLYPROPYLENE, UV TREATED

COLOR: WHITE

SPECIAL FEATURES:

- 10 INCH TREATED RIGID LOOPS, SINGLE LOOP STRENGHT \geq 4400 LBS.
- PACKAGED 60 EACH PER PALLET
- STENCILING AS PER THE FOLLOWING:
STENCILED ON ONE SIDE WITH 2" BLACK UPPER CASE LETTERS
LINES SEPARATED BY 2" SPACES. WORDED:

HENDERSON MILL _____

MOLYCONC. GR. 1 _____

LOT NO 9 _____



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P.O. BOX 220 • FORT MADISON, IOWA 52627



7001 1940 0000 3365 7039



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